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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/003,642	10/25/2001	Khoi Hoang	60595-301801	8323

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EXAMINER

WILLETT, STEPHAN F

ART UNIT	PAPER NUMBER
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2142

DATE MAILED: 07/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/003,642

Applicant(s)

HOANG, KHOI

Examiner

Stephan F Willett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) 27-31 and 33-41 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 and 32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11/21/02; 8/21/03; 8/21/02; 3/15/02
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-26, 32, drawn to decoding file, are classified in class 709, subclass 236.
 - II. Claims 27-31, drawn to encoding a file at different rates, are classified in class 709, subclass 232.
 - III. Claims 33-41, drawn to storing a complete file, are classified in class 725, subclass 142.
2. The inventions are distinct, each from the other because:

The claims in Group I involve steps to decode a file, while the claims in Group II specifically involve encoding a file at different rates, which is classified in a different class from Group I and the claims in Group III involve storing complete file, which is classified in a different subclass from Group I and II.

3. Inventions I, II and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as to simple decode a file. In the instant case, invention II has separate utility such as to encode a file. In the instant case, invention III has separate utility such as to store a file. See MPEP § 806.05(d).

4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

5. Because these inventions are distinct for the reasons given above and the searches required for Group I is not required for Groups II or III, restriction for examination purposes as indicated is proper.

6. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement may be traversed (37 CFR 1.143).

7. Applicant's election without traverse of claims 1-26, 32 by Tamiz Khan by telephone on December 12, 2004 is acknowledged.

Claim Rejections - 35 USC 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1, 6-8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The "initiating an authorized file retrieval process", "download time", "download window length", and "longest broadcast interval" is unclear.

3. Claim 5-8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. EPG and STB are acronym(s) and/or trademark(s), and thus are unclear.

4. Claim 7 recites the limitation "the download window" instead of a download window. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC 102

1. The following is a quotation of the appropriate paragraphs of 35 U. S.C. 102(e) that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-26, 32 are rejected under 35 U.S.C. 102(e) as being anticipated by Birk et al. with Patent Number 6,502,139.

3. Regarding claim(s) 1, 9, 17, 25, Birk teaches receiving a request from a user selecting, co. 10, lines 3-5 a repetitively broadcast file, col. 12, lines 2-4 over a set bandwidth, col. 10, lines 18-19. Birk teaches retrieving a first part of a file during a first interval, col. 2, lines 41-42, and retrieving a second part during a second interval, col. 2, lines 42-43. Birk teaches rearranging

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the parts to reconstitute at least part of the file, col. 9, lines 43-46. Birk teaches requesting authorization to send and retrieve the file, col. 15, lines 29-31.

4. Regarding claim(s) 2, 10, 18, Birk teaches requesting authorization to retrieve the file, col. 15, lines 29-31.

5. Regarding claim(s) 3, 11, 19, 26, Birk teaches retrieving a third part of a file during a third interval to reconstitute a file, col. 2, lines 43-45 and col. 7, lines 7-8.

6. Regarding claim(s) 4, 12, 20, Birk teaches different files in subchannels, col. 1, lines 45-52; col. 14, lines 4-8 and files have different rates of broadcast, col. 7, lines 15-16.

7. Regarding claim(s) 5, 13, 21, Birk teaches and EPG and STB, col. 10, lines 4-5; col. 9, line 31.\

8. Regarding claim(s) 6-7, 14-15, 22-23, Birk teaches automatically selecting a download time, interval and window, col. 3, lines 51-51; col. 5, lines 8-14.

9. Regarding claim(s) 8, 16, 24, Birk teaches a download window as long as the file, col. 12, lines 47-52.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is disclosed in the Notice of References Cited. A close review of the references is suggested. A close review of the Willard reference with Patent Number 6,622,305 is suggested. The other references cited teach numerous other ways to adapt RSVP to wireless networks, thus a close review of them is suggested.

6. Any inquiry concerning this communication or earlier communications from the

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examiner should be directed to Stephan Willett whose telephone number is (703) 308-5230. The examiner can normally be reached Monday through Friday from 8:00 AM to 6:00 PM.

7. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell, can be reached on (571)272-3868. The fax phone number for the organization where this application or proceeding is assigned is (571)273-8300.

8. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-9605.

A handwritten signature in black ink, appearing to read "Stephan Willett", is written above the printed name.

Stephan Willett

Patent Examiner

July 6, 2005